

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

Criminal No. 2:08-cr-20022

Civil No. 2:10-cv-10345

Hon. Gerald E. Rosen

LAURYE MITCHELL,

Defendant.

**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND
RECOMMENDATION DENYING DEFENDANT'S MOTIONS TO
VACATE SENTENCE UNDER 28 U.S.C. § 2255.**

On September 23, 2013, Magistrate Judge R. Steven Whalen issued a Report and Recommendation (R & R) recommending that this Court: (1) deny Defendant's Motion to Vacate Sentence under 28 U.S.C. § 2255 (Dkt. # 20), as amended (Dkt. # 38); (2) deny Defendant's Second Motion to Amend/Correct Sentence under 28 U.S.C. § 2255 (Dkt. # 52); and (3) order the preparation of an amended presentence report with an updated psychological evaluation to replace the original presentence report in order to aid in Defendant's placement into an appropriate medical or psychiatric facility. (R & R, Dkt. # 63). Defendant filed

timely objections to the R & R (Dkt. # 65) and the Government responded (Dkt. # 67) upon an order from this Court (Dkt. # 66). Having reviewed the R & R, Defendant's Objections, the Government's Response, the accompanying exhibits, and the record as a whole, the Court fully concurs in the Magistrate Judge's analysis and recommendations.

For all of the foregoing reasons,

IT IS HEREBY ORDERED that the Magistrate Judge's September 23, 2013 Report and Recommendation (Dkt. # 63) is hereby ADOPTED by this Court;

IT IS FURTHER ORDERED that Defendant's Motion to Vacate Sentence under 28 U.S.C. § 2255 (Dkt. # 20), as amended (Dkt. # 38), is DENIED;

IT IS FURTHER ORDERED that Defendant's Second Motion to Amend/Correct Sentence under 28 U.S.C. § 2255 (Dkt. # 52) is DENIED;

IT IS FURTHER ORDERED that the Probation Department shall prepare an amended presentence report with an updated psychological evaluation to replace

the original presentence report by no later than ninety days from entry of this Order.¹

IT IS SO ORDERED.

Dated: January 27, 2014

s/Gerald E. Rosen

GERALD E. ROSEN

CHIEF, U.S. DISTRICT COURT

I hereby certify that a copy of the foregoing document was mailed to the attorneys of record on this date, January 27, 2014, by electronic and/or ordinary mail.

s/Julie Owens

Case Manager, 313-234-5135

¹ The Court remains frustrated that the Bureau of Prisons has apparently continued to ignore this Court's strong recommendations that this Defendant be placed in an institution with mental health evaluation and treatment capabilities and that he be given a thorough and complete mental health evaluation with appropriate treatment. Although the Court recognizes that at sentencing it can only make a recommendation to the Bureau of Prisons, the Court finds it troubling and dismaying that given this Defendant's lengthy history of serious and well-documented mental health problems, the Court's recommendation has been so casually disregarded. The Court hopes that this Order will cause the Bureau of Prisons to revisit and revise its placement decision.